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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/825,575
Filing Date: April 15, 2004
Appellant(s): HEINONEN ET AL.

Phouphanomketh Ditthavong
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 24, 2010 appealing from the Office action mailed August 25, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1 – 23, 33 – 45, 47, 48, 50, and 51 are pending in this application. Claims 1 – 23, 33 – 45, 47, 48, 50, and 51 were finally rejected on August 25, 2010.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection of claim 39 under 35 U.S.C. §101 is withdrawn, since Applicant has explicitly disclaimed on the record the use of carrier waves. Therefore, the "computer readable storage medium" will no longer be interpreted as including carrier waves for the purpose of this application.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,319,355	Russek	6-1994
2002/0052539	Haller et al.	5-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 – 12, 14 – 23, 33 – 39, 41 – 45, 47, 48, 50, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Russek U.S. Patent No. 5,319,355.

1. A method, comprising:

receiving at a mobile wireless event handling device (Column 3 lines 58 – 68, column 4 lines 1 – 6), a first signal via a first network, from a monitoring device on a patient who is separate from the mobile wireless event handling device, the first signal comprising at least a general broadcast emergency signal (Column 4 lines 51 - 65, column 5 lines 60 – 68, see also column 10 lines 55 – 68, column 11 lines 1 - 11 coded pulse signal is transmitted from the patient to master units) and including information corresponding to physiological parameters and an identification of the monitoring device

(Column 4 lines 51 – 65 coded pulse signal includes identification information for the patient, equipment, and location); and

causing, at least in part, transmission from the mobile wireless event handling device to a third party, a second signal via a second network, the second signal including at least information corresponding to the identification of the monitoring device (Column 4 lines 51 – 65, column 5 lines 32 – 56 master units transmit coded signals to pagers for doctors, nurses, or emergency response).

3. The method of claim 1, wherein the monitor is adapted to detect, sense, or measure the physiological parameters (Column 7 lines 38 – 68, column 8 lines 1 – 13).

4. The method of claim 1, wherein the monitor is adapted to stimulate, intervent, or control physiological functions affecting the physiological parameters (Column 1 lines 10 – 23, column 7 lines 38 – 42, column 8 lines 1 – 13 defibrillators or ventilators).

5. The method of claim 1, wherein the physiological parameters relate to heart function (Column 7 lines 38 – 42 EKG).

6. The method of claim 1, wherein the physiological parameters relate to brain function (Column 7 lines 38 – 42 EEG).

7. The method of claim 1, wherein the first signal and the second signal are wireless signals (Column 3 lines 58 – 68, column 4 lines 1 – 65, column 7 lines 62 – 68 transmissions are made by means of radio frequency).

8. The method of claim 7, wherein the first network and the second network are wireless communication networks (Column 3 lines 58 – 68, column 4 lines 1 – 65, column 7 lines 62 – 68 transmissions are made by means of radio frequency).

9. The method of claim 8, wherein the second network is a cellular network (Column 15 lines 41 – 51 pagers are connected to any cellular network).

10. The method of claim 1, further comprising:

processing the first signal prior to transmitting the second signal (Column 4 lines 51 – 65, column 8 lines 49 – 68, column 9 lines 17 – 59 upon receipt of the coded alarm signal the master control processes the signal and determines the appropriate pagers to be called).

11. The method of claim 10, wherein processing further comprises:

verifying a source of the first signal (Column 4 lines 51 – 65, column 9 lines 17 – 59) coded alarm signal includes patient and equipment identifying information which is processed by the master control unit to determine the appropriate pagers to be called);

identifying an event associated with the first signal and related to the physiological parameters (Column 9 lines 60 – 66 the master control unit also processes the transmitted medical data for prioritization); and

determining the third party for the second signal (Column 4 lines 51 – 65, column 9 lines 17 – 59) coded alarm signal includes patient and equipment identifying information which is processed by the master control unit to determine the appropriate pagers to be called).

41. The method of claim 1, wherein the first signal comprises a broadcast communication device (Column 5 lines 60 – 68, column 6 line 1, column 7 lines 65 – 68 alarm signal generator transmits signals over RF emergency bands until a response is received from a master control unit).

42. The method of claim 1, wherein the general broadcast emergency signal is adapted for receipt by all mobile wireless event handling devices within communication range of the monitoring device (Column 5 lines 60 – 68, column 6 line 1, column 7 lines 65 – 68 alarm signal generator transmits signals over RF emergency bands until a response is received from a master control).

43. The method of claim 42, wherein the mobile wireless event handling devices are equipped with at least minimal event handling capabilities for receiving the general broadcast emergency signal (Column 9 lines 17 – 59 master controls have programming to receive, process, and act upon coded alarm signals).

44. The method of claim 1, wherein the mobile wireless event handling device includes at least minimal event handling capabilities for receiving the general broadcast emergency signal (Column 9 lines 17 – 59 master controls have programming to receive, process, and act upon coded alarm signals).

47. The method of claim 1, wherein the first signal further includes information conveying location of the monitoring device (Column 4 lines 51 – 65 coded pulse signal sent from alarm generator at the patient includes location information).

Claims 12, 14 – 23, 33 – 39, 45, 48, 50, and 51 are rejected on substantially the same basis as claims 1, 3 – 11, 41 – 44 and 47, above, by Russek (see citations above).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russek U.S. Patent No. 5,319,355 as applied to claims 1 and 12 above in view of Haller et al. U.S. PGPub No. 2002/0052539.

In regards to claims 2 and 13, Russek discloses external devices for monitoring heart rate or EKG such as Hater monitors (Russek column 7 lines 38 – 42, column 8 lines 1 – 13), yet fails to disclose an implanted monitor. However, Haller et al. a reference in an analogous art for recording heart signals discloses external or implanted heart rate monitors (Haller et al. paragraph 0240). It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the external devices of Russek with the implanted monitor of Haller et al., since Haller et al. discloses the two as interchangeable (Haller et al. paragraph 0240).

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russek U.S. Patent No. 5,319,355 as applied to claim 1 above.

Regarding claim 40, Russek teaches transmitting signals from a master control (event handling device) to pagers including "information as to the location, patient name, equipment identification and/or other relevant information provided directly from the medical equipment" (Russek column 5 lines 32 – 56). Russek fails to disclose transmitting information identifying the master control to the pagers. However, it would have been obvious to one of ordinary skill at the time the invention was made to include supplemental identifying information such as the source of a data transmission. First, transmitting identifying information is known in the art of data transmission, especially in RF and cellular transmissions such as those used in Russek. Second, Russek states that additional information may be included in transmissions (see above). Third, the master control transmits the information to pagers, which are known to display data of the sender including caller ID information, which would identify the master control. Finally, while

Applicant's specification states in paragraph 0019 that event handling device identification data can be added to transmissions, there is no advantage or necessity discussed for such a feature, and thus is considered nonessential to the functionality of the invention.

(10) Response to Argument

Applicant contends the prior art references fail to disclose:

1) "a mobile wireless event handling device," which is a handheld device; and

2) "a general emergency broadcast signal."

The Examiner respectfully disagrees for the following reasons:

Regarding the first point, the Examiner first notes that the term "handheld" is not mentioned anywhere in the claims, and therefore is not pertinent to the remarks at this time. The claims recite a "mobile wireless event handling device," which under the broadest reasonable interpretation of the claim language in light of the specification is interpreted to be a device that communicates wirelessly and is capable of being moved. Although the specification mentions "mobile devices such as mobile telephones," the term "mobile device" is not defined to be limited to telephones or handheld devices, and examples from the specification are not read into the claims. Applicant's supplied Wikipedia reference is also narrower than the broadest reasonable interpretation of the terms "mobile" and "device." Furthermore, since the claims recite "mobile wireless event handling device," and not just "mobile device," the Wikipedia definition does not limit the broadest reasonable interpretation of the claims.

Turning to the prior art, Russek discloses master alarm control units placed in proximity to patient medical equipment (Column 3 lines 58 – 68, column 4 lines 1 – 6). Russek states that the master alarm control units are removable from the patient area and may be relocated at a nurses' station, emergency room, or other desired location. Since the master alarm control units are moveable to different locations, they are mobile. The master alarm control units also communicate wirelessly (Column 3 lines 58 – 68, column 10 lines 18 – 68, column 11 lines 1 – 11). Therefore, the applied prior art discloses a "mobile wireless event handling device" and is sufficient to reject the claim limitation as presented.

Regarding the second point, Russek discloses transmitting a "coded pulse signal" from patient sensors to a master alarm control unit via RF emergency bands, and states that multiple master alarm control units can be linked in a network (Column 3 lines 58 - 68, column 10 lines 18 - 68, column 11 lines 1 - 11). Russek further states that while networked, master alarm control units share information, so when the patient is moved from an area monitored by one master alarm control unit to an area monitored by another, information is always accessible (Column 10 lines 55 - 68, column 11 lines 1 - 11). Therefore, the coded pulse signal sent by patient alarm generators is receivable by multiple master alarm control units. Since the signal is receivable by more than one receiver, the signal is "general" in the sense used by the Applicant, and is not directed toward one specific recipient, but rather a recipient located in the area of alarm transmission.

Applicant asserts that the "general broadcast" is sent to unspecified recipients, and also states the "general broadcast signal may be received by any mobile devices in the

area" (Appeal brief page 8). Applicant's comments are contrary to the disclosure of the specification. The entire disclosure for the "general broadcast signal" is limited to paragraphs 0021 and 0022 of the specification. Paragraph 0021 states that the broadcast signal is detected and processed by "all mobile devices equipped with minimal event handling capabilities. . . mobile devices . . . may be configured to include at least event handling capabilities sufficient to recognize and act upon the emergency signal." By a plain reading of this paragraph, it is clear that the signal is not receivable by "any mobile device," but rather by devices preprogrammed to detect and act upon the signal. Thus, the broadest reasonable interpretation of the claim in light of the specification applied by the Examiner of a "general broadcast signal" in this case is a signal sent to a relatively unspecified recipient, although the recipient must be within a group of devices having sufficient programming to receive the signal. Since the coded pulse signal of Russek is transmitted to whichever master alarm control unit is within the alarm generator's transmitting proximity, rather than transmission to just one specific master alarm control unit, Russek teaches a "general broadcast emergency signal." Additionally, Russek discloses a "general broadcast emergency signal" that is adapted for (or capable of) receipt by all master alarm control units in the monitored area, since Russek teaches the coded pulse signal being received by one master alarm control unit when in one location of a hospital, and receipt by another master alarm control unit when in a different part of a hospital (Column 10 lines 55 - 68). Therefore, the applied prior art is sufficient to reject the claims as currently presented.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the foregoing reasons, the Examiner respectfully submits that the applied prior art is sufficient to reject the claims as they are currently presented.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Kai Rajan/

Examiner, Art Unit 3769

January 28, 2011

Conferees:

/Henry M. Johnson, III/
Supervisory Patent Examiner, Art Unit 3769

/Eric Nicholson/
RQAS -3700